

IN THE UNITED STATES DISTRICT COURT
FOR WESTERN DISTRICT OF TEXAS
WACO DIVISION

ZENO HOLDINGS, LLC

Plaintiff,

v.

VTIGER SYSTEMS (INDIA) PRIVATE
LIMITED

Defendant.

Civil Action No. 6:20-cv-00010

JURY TRIAL DEMANDED

COMPLAINT

For its Complaint, Plaintiff Zeno Holdings, LLC ("Zeno Holdings"), by and through the undersigned counsel, alleges as follows:

THE PARTIES

1. Zeno Holdings is a Texas limited liability company with a place of business located at 312 W. 8th Street, Dallas, TX 75208.

2. Defendant Vtiger Systems (India) Private Limited is an Indian company with a place of business located in Austin, Texas.

3. On August 19, 2019, Zeno Holdings' licensing agent sent a letter via e-mail to Defendant's legal department informing Defendant of the patents-in-suit and enclosing claim charts.

JURISDICTION AND VENUE

4. This action arises under the Patent Act, 35 U.S.C. § 1 *et seq.*

5. Subject matter jurisdiction is proper in this Court under 28 U.S.C. §§ 1331 and 1338.

6. Upon information and belief, Defendant conducts substantial business in this

forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals or companies in this district.

7. Venue is proper in this district pursuant to § 1400(b).

THE PATENTS-IN-SUIT

8. On August 25, 2015, U.S. Patent No. 9,118,773 (the "'773 patent"), entitled "Automated Prompting Techniques Implemented Via Mobile Devices and Systems," was duly and lawfully issued by the U.S. Patent and Trademark Office. A true and correct copy of the '773 patent is attached hereto as Exhibit A.

9. On June 10, 2014, U.S. Patent No. 8,750,836 (the "'836 patent"), entitled "Automated Prompting Techniques Implemented Via Mobile Devices and Systems," was duly and lawfully issued by the U.S. Patent and Trademark Office. A true and correct copy of the '836 patent is attached hereto as Exhibit B.

10. Zeno Holdings is the assignee and owner of the right, title and interest in and to the '773 and '836 patents, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

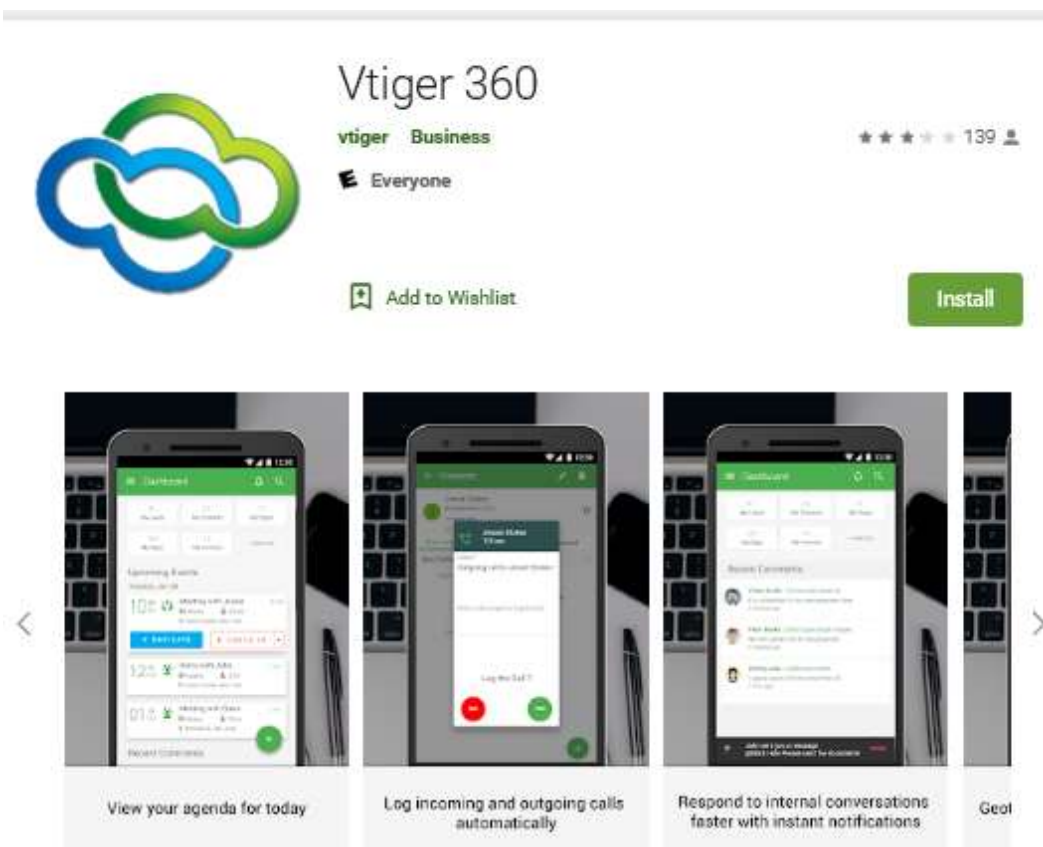
COUNT I – INFRINGEMENT OF U.S. PATENT NO. 9,118,773

11. Zeno Holdings repeats and realleges the allegations of paragraphs 1 through 10 as if fully set forth herein.

12. Without license or authorization and in violation of 35 U.S.C. § 271(a), Defendant is liable for infringement of at least claims 1 and 2 of the '773 patent by making, using, importing, offering for sale, and/or selling systems and methods for operating a mobile communication device

associated with a user, including, but not limited to, Vtiger 360 Mobile App ("Vtiger 360"), because each and every element is met either literally or equivalently.

13. More specifically and upon information and belief, Vtiger 360 provides multiple functions to a user such as to access, create and save CRM data, make phone calls, take notes about the call after a call ends, create follow up tasks, etc.



Vtiger CRM Mobile for Android puts your customer data in your pocket! Access and update your contact data, sales pipeline, projects or support data on the fly, right from your Android phone.

Further enhance your CRM experience by taking advantage of unique features such as

- Collaboration with your team using @mentions and get real time push notifications on upcoming Events, Tasks or mentions.
- Access or modify records you own in offline mode and synchronize when you are online.
- View Lead, Contact or Organization addresses on maps and update using map location.
- View Contact or Organization profile scoring on a scale of 1 to 5 stars based on scoring matrix configured by Administrator.
- Dynamic dependency to keep your record views organized by showing fields only when certain business rules are met.
- Log outgoing calls instantly in Vtiger 360
- Plan your customer visits faster with Vtiger 360's GPS-enabled features that show you customer sites on a map and let you check in when you get there.
- Attach Vtiger documents or from the device to Emails sent from Vtiger 360.

Note: This app only supports the cloud version of Vtiger. Please visit vtiger.com to signup for an account.

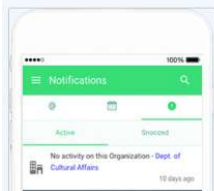
<https://play.google.com/store/apps/details?id=com.vtiger.apps.vtiger360&hl=en>.

Vtiger 360 - Mobile Apps

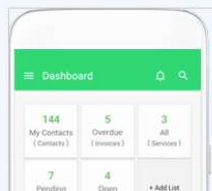
For iPhone, iPad, and Android devices

See summaries of today's calendar
 See recent comments, notifications, and reminders
 View, edit, or create most CRM records
 Automatically log mobile calls in contact records (Android)
 Get special mobile alerts
 Photograph business cards to transform them into leads
 Access records offline
 And more.

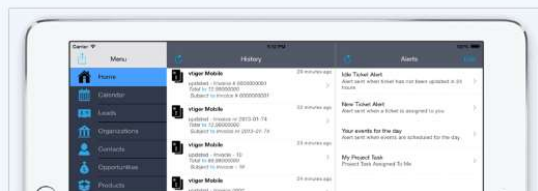
For iPhone



For Android



For iPad



<https://www.vtiger.com/all-in-one-crm/mobile-apps/>.

14. The Vtiger 360 app provides a call logging feature that enables the user to create notes about the call just after the call ends. In the app, the user can set specific settings (e.g., "threshold criteria") for enabling or disabling the call logging feature.

Log outgoing calls from Vtiger 360

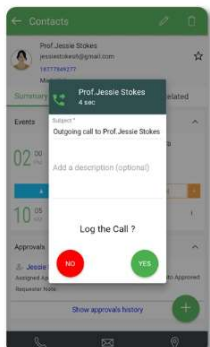
Calls made from Vtiger 360 app can be logged as an outbound call and reflected in customer touchpoints. Call logs help you to record outgoing calls including the name of the caller, the number dialed, the time, date, and the duration of the call.

Note: To log every call you make via the app, you have to enable 'Call Log' toggle in 'Settings'.

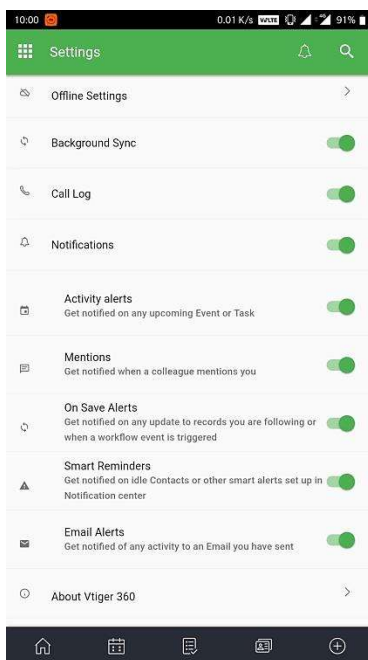
Log calls from any of the modules having phone field with phone numbers. For every call, you can create an Event record.

How do I log outgoing calls in Vtiger 360?

1. Click on the phone number to make a call either from summary view or detail view or header view of the record.
2. After the call ends/disconnected, a pop-up appears to log the call.
3. Provide Subject to the event.
4. Click on Yes button to log the call, an Event record is created with the call details.
5. Click on 'Add a Description' in the call log pop up to add your important notes as the description in the Event record.
6. The created Event will be linked to the record that initiated the call.
7. On clicking No button, the call is not logged.



https://www.vtiger.com/docs/vtiger-360-mobile-app#/Log_outgoing_calls_from_Vtiger_360.

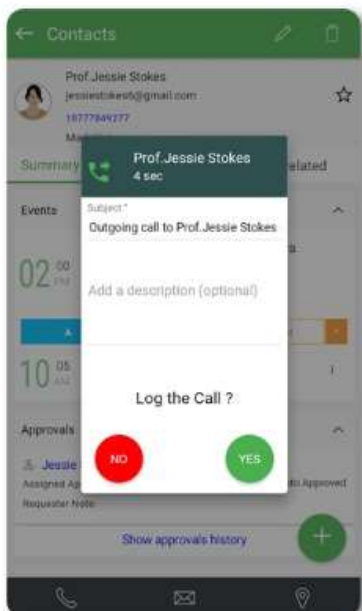


Screenshot of Vtiger 360.

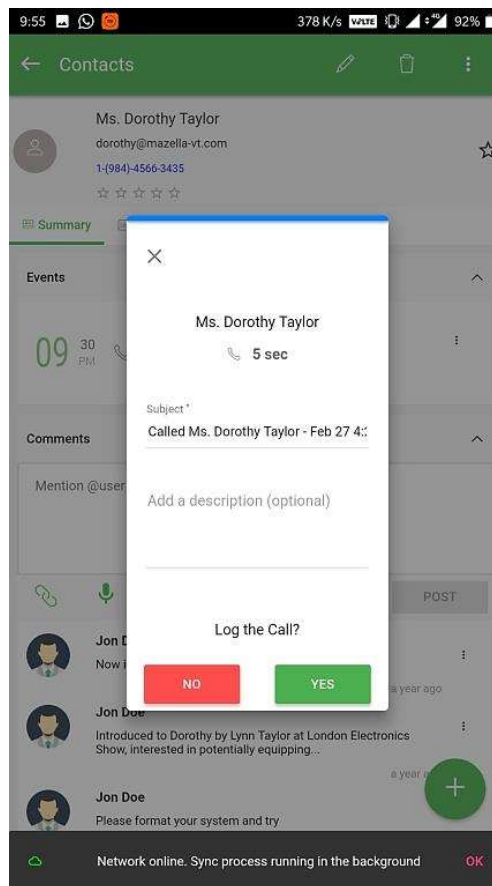
15. When the user has enabled the call log feature and the call ends, a pop-up appears on the user's mobile device which allows the user to log the call and enter comments (e.g., "a user interface message prompting the user to initiate a procedure").

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1. Click on the phone number to make a call either from summary view or detail view or header view of the record.
2. After the call ends/disconnected, a pop-up appears to log the call.
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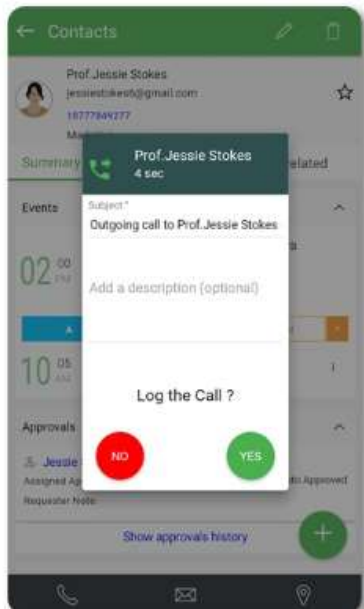


Screenshot of Vtiger 360.

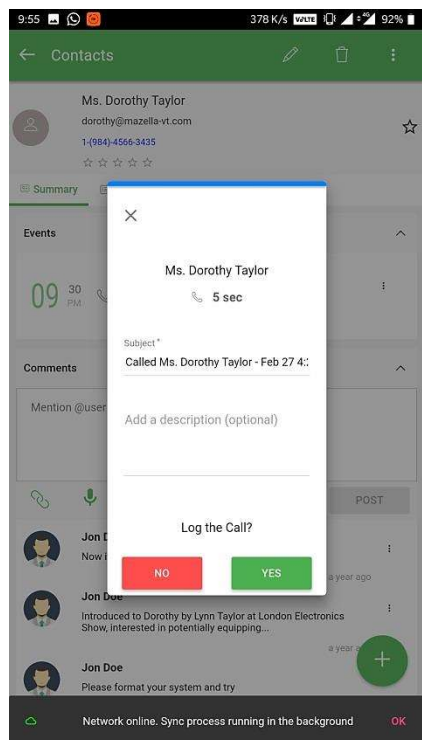
16. When the user ends the call, the Vtiger 360 app automatically presents a new screen displaying option for call logging. This shows that the app detects that the call has ended (e.g., "end of call (EOC) event has been detected").

How do I log outgoing calls in Vtiger 360?

1. Click on the phone number to make a call either from summary view or detail view or header view of the record.
2. After the call ends/disconnected, a pop-up appears to log the call.
3. Provide Subject to the event.
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https://www.vtiger.com/docs/vtiger-360-mobile-app#/Log_outgoing_calls_from_Vtiger_360.



Screenshot of Vtiger 360.

17. If the call logging feature has been enabled and the user ends the call, the Vtiger 360 app shows the option for call logging.

Log outgoing calls from Vtiger 360

Calls made from Vtiger 360 app can be logged as an outbound call and reflected in customer touchpoints. Call logs help you to record outgoing calls including the name of the caller, the number dialled, the time, date, and the duration of the call.

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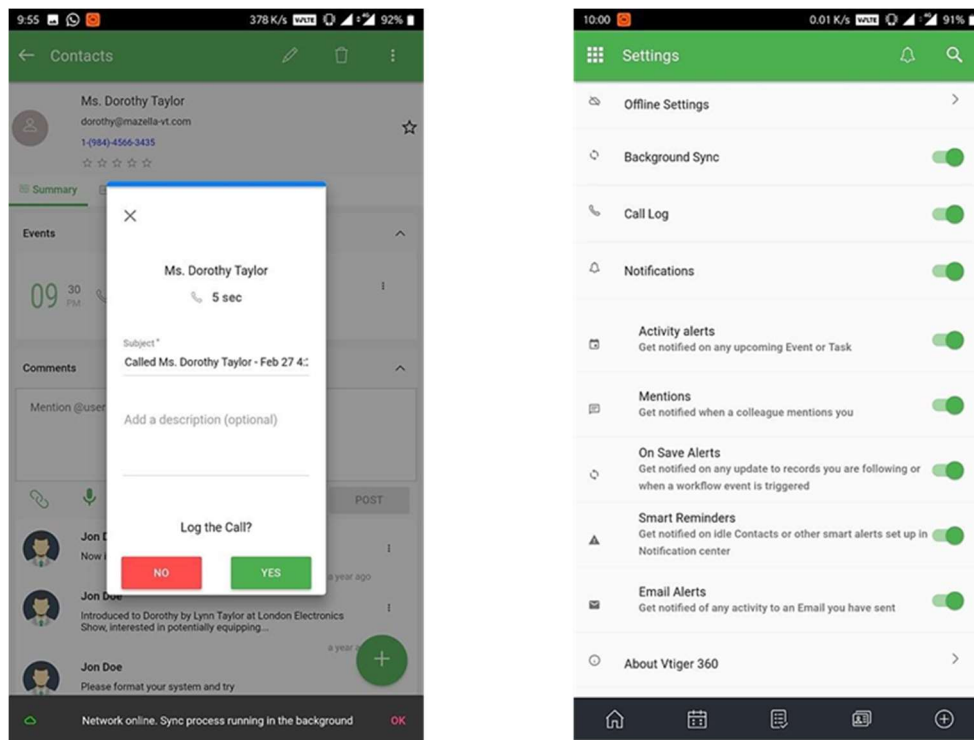
Note: To log every call you make via the app, you have to enable 'Call Log' toggle in 'Settings'.

Log calls from any of the modules having phone field with phone numbers. For every call, you can create an Event record.

How do I log outgoing calls in Vtiger 360?

1. Click on the phone number to make a call either from summary view or detail view or header view of the record.
2. After the call ends/disconnected, a pop-up appears to log the call.

Id.



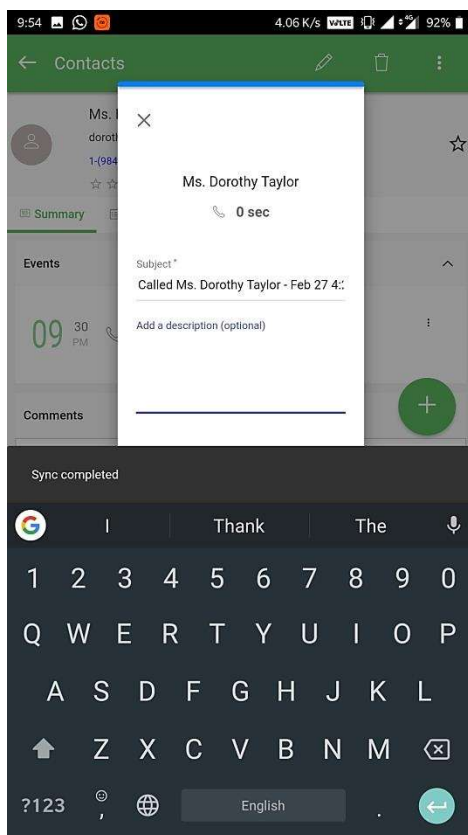
Screenshots of Vtiger 360.

18. The call log option allows the user to enter the notes about the call. If the user does not want to add notes/description, he/she has an option to cancel the call logging (e.g., "the user authorizing initiation of the procedure").

How do I log outgoing calls in Vtiger 360?

1. Click on the phone number to make a call either from summary view or detail view or header view of the record.
2. After the call ends/disconnected, a pop-up appears to log the call.
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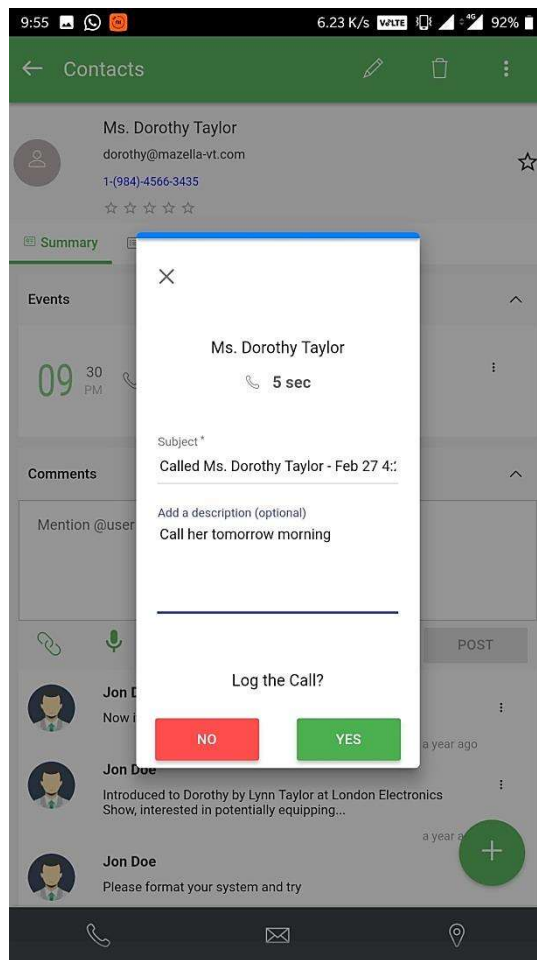
Screenshot of Vtiger 360.

19. The user can enter information such as notes related to the call (e.g., "digital content").

How do I log outgoing calls in Vtiger 360?

1. Click on the phone number to make a call either from summary view or detail view or header view of the record.
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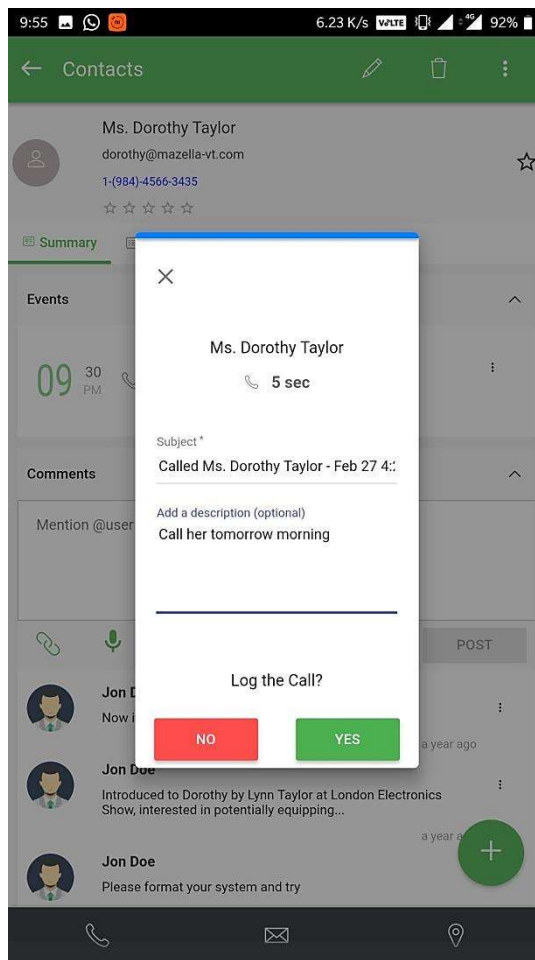
Screenshot of Vtiger 360.

20. The Vtiger 360 app automatically fetches other details about the call such as description about the call, called party name, etc.

How do I log outgoing calls in Vtiger 360?

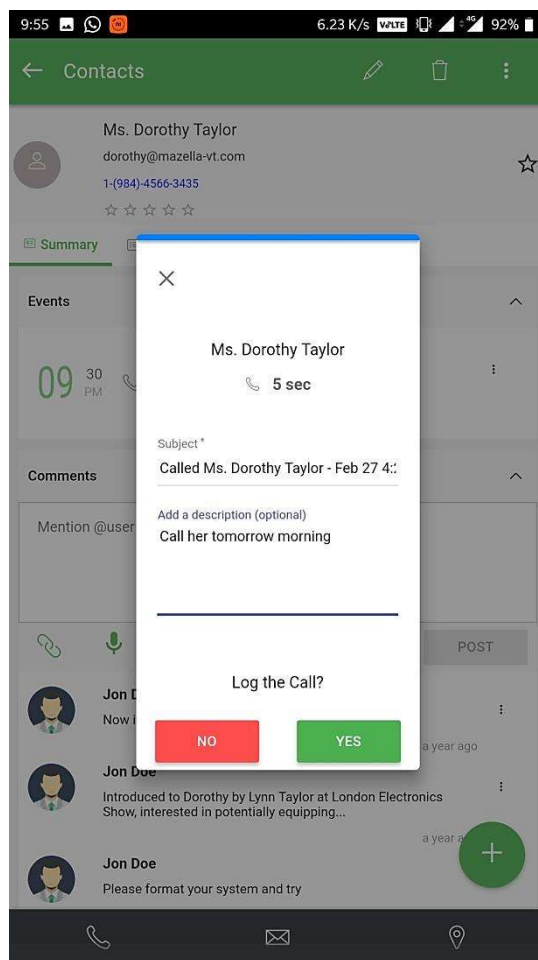
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7. On clicking No button, the call is not logged.

https://www.vtiger.com/docs/vtiger-360-mobile-app#/Log_outgoing_calls_from_Vtiger_360.



Screenshot of Vtiger 360.

21. The call logging functionality allows a user to create an electronic file comprising the details of the call such as name of the called party and notes entered by the user.



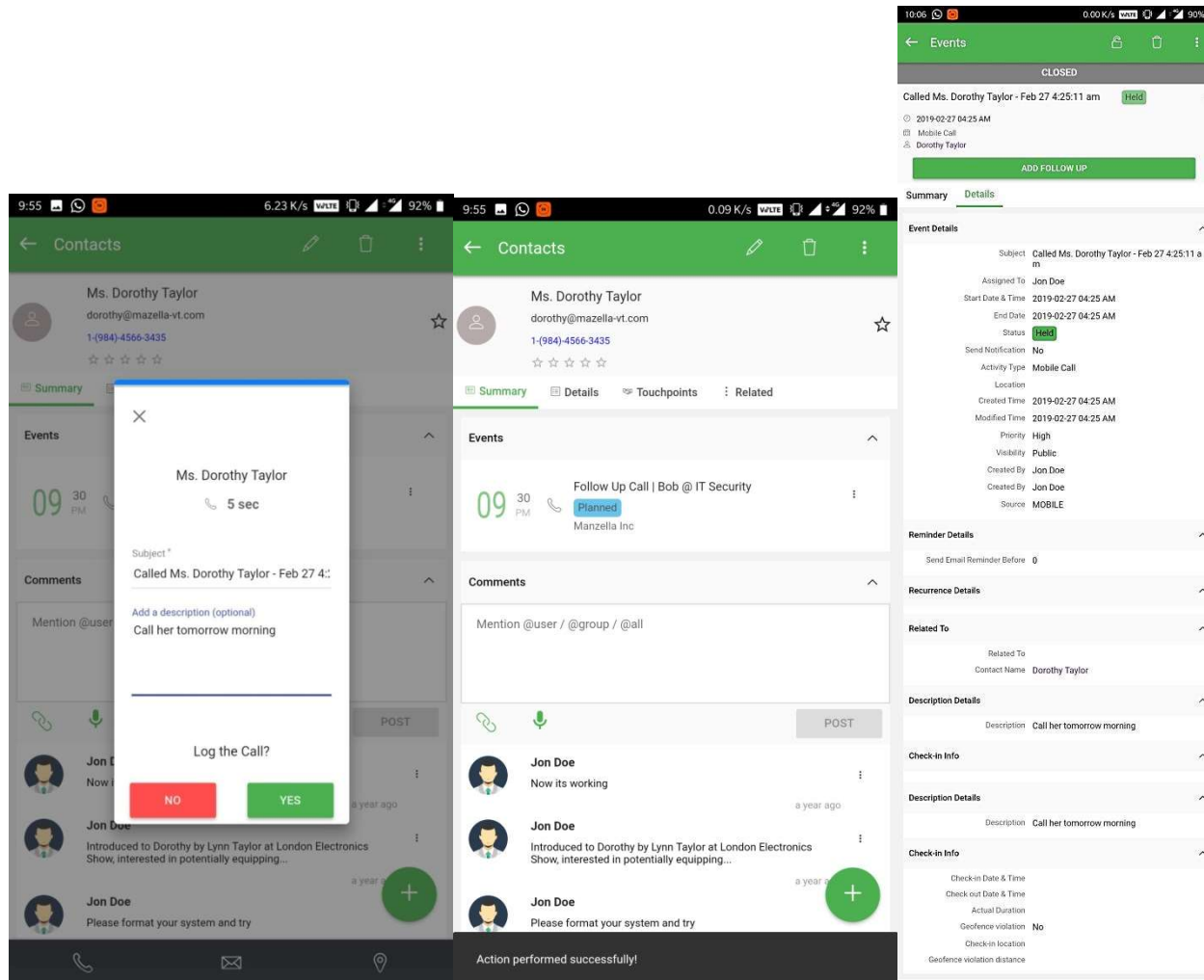
Screenshot of Vtiger 360.

22. When the user has entered notes regarding the call and clicks on "Yes" option, the information is saved and these details are further used to track the customer calls for future reference.

How do I log outgoing calls in Vtiger 360?

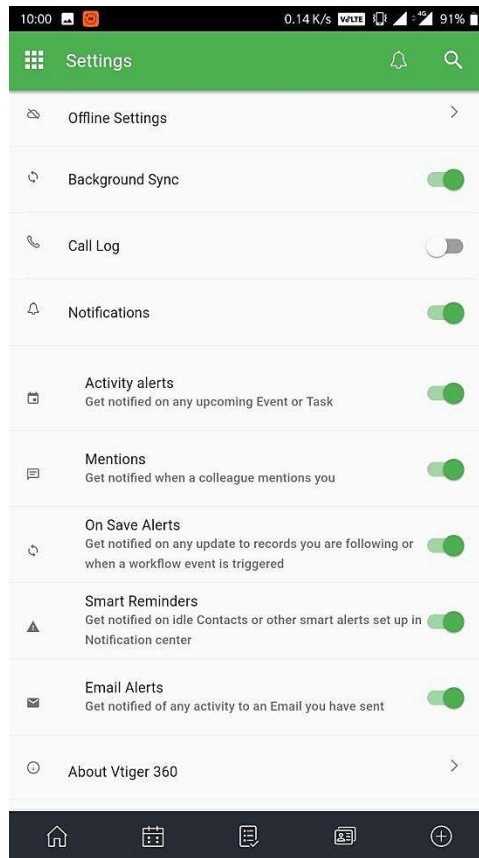
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Screenshots of Vtiger 360.

23. The Vtiger 360 app has a feature to enable or disable call logging. When the call logging is disabled (e.g., "threshold criteria has not been satisfied"), no pop-up is displayed to the user for entering details or notes related to that call after the "end of call" event.



Screenshot of Vtiger 360.

24. Zeno Holdings is entitled to recover from Defendant the damages sustained by Zeno Holdings as a result of Defendant's infringement of the '773 patent in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

COUNT II – INFRINGEMENT OF U.S. PATENT NO. 8,750,836

25. Zeno Holdings repeats and realleges the allegations of paragraphs 1 through 24 as if fully set forth herein.

26. Without license or authorization and in violation of 35 U.S.C. § 271(a), Defendant is liable for infringement of at least claims 1 and 2 of the '836 patent by making, using, importing, offering for sale, and/or methods systems and methods for operating a mobile communication

device associated with a user, including, but not limited to, Vtiger 360 Mobile App ("Vtiger 360"), because each and every element is met either literally or equivalently.

27. More specifically and upon information and belief, the Vtiger 360 app provides multiple functions to a user such as to access, create and save CRM data, make phone calls, take notes about the call after a call ends, create follow up tasks, etc.



Vtiger CRM Mobile for Android puts your customer data in your pocket! Access and update your contact data, sales pipeline, projects or support data on the fly, right from your Android phone.

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Note: This app only supports the cloud version of Vtiger. Please visit vtiger.com to signup for an account.

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Vtiger 360 - Mobile Apps

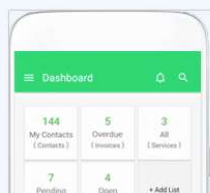
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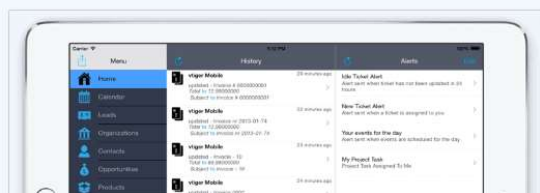
For iPhone



For Android



For iPad



<https://www.vtiger.com/all-in-one-crm/mobile-apps/>.

28. The Vtiger 360 app provides a call logging feature that enables the user to create notes about the call just after the call ends. In the app, the user can set specific settings (e.g., "threshold criteria") for enabling or disabling the call logging feature.

Log outgoing calls from Vtiger 360

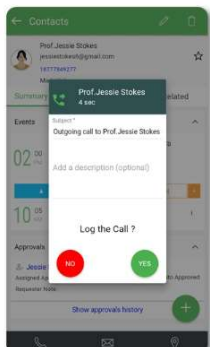
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Note: To log every call you make via the app, you have to enable 'Call Log' toggle in 'Settings'.

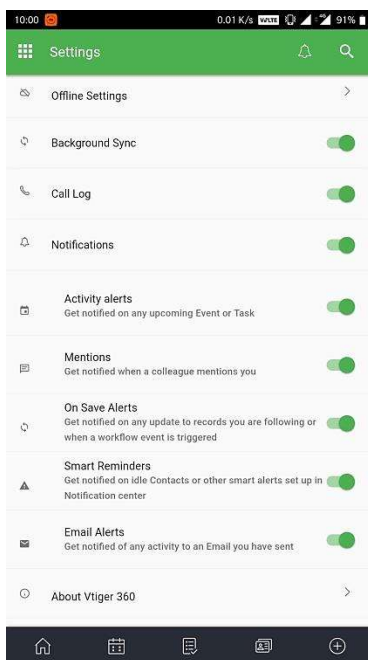
Log calls from any of the modules having phone field with phone numbers. For every call, you can create an Event record.

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3. Provide Subject to the event.
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5. Click on 'Add a Description' in the call log pop up to add your important notes as the description in the Event record.
6. The created Event will be linked to the record that initiated the call.
7. On clicking No button, the call is not logged.



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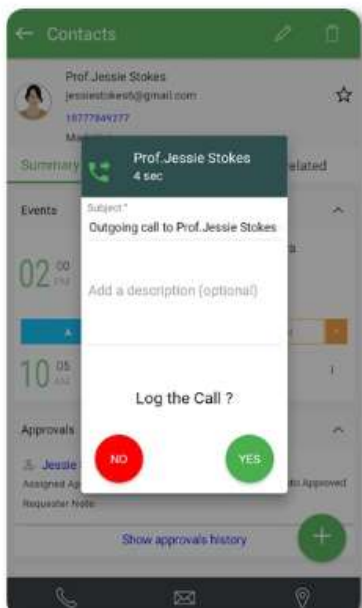


Screenshot of Vtiger 360.

29. When the call logging feature has been enabled and the call ends, an option appears on the user's mobile device which allows the user to log the call and enter comments (e.g., "first user interface message prompting the first user to initiate a first procedure").

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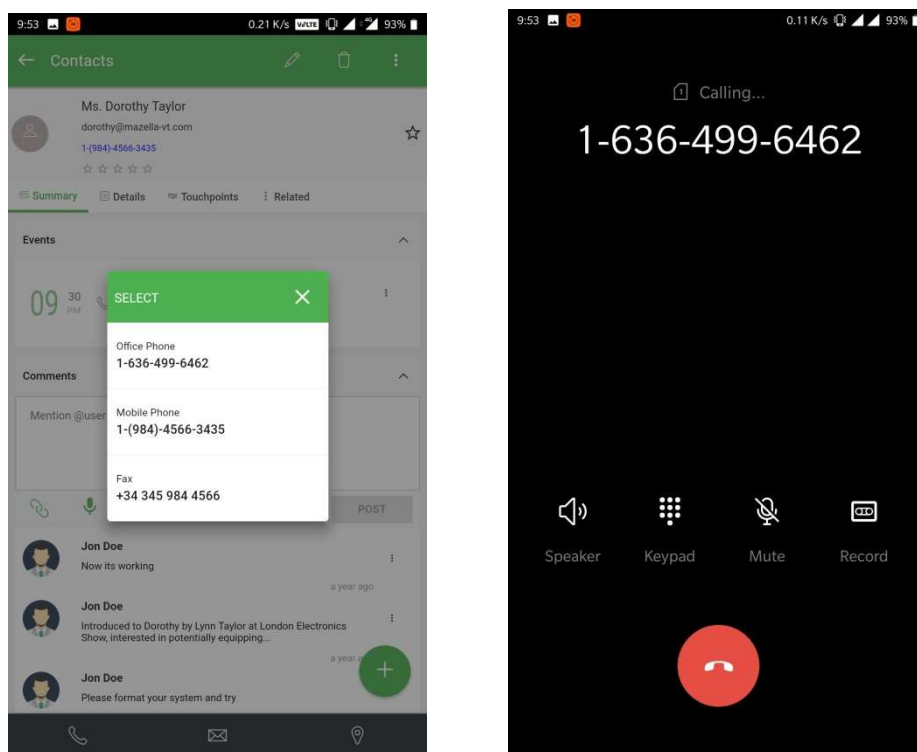
https://www.vtiger.com/docs/vtiger-360-mobile-app#/Log_outgoing_calls_from_Vtiger_360.

30. The user can initiate a call (e.g., "initiation of a first phone call") to any of the saved contacts from Vtiger 360 app.

How do I log outgoing calls in Vtiger 360?

1. Click on the phone number to make a call either from summary view or detail view or header view of the record.
2. After the call ends/disconnected, a pop-up appears to log the call.
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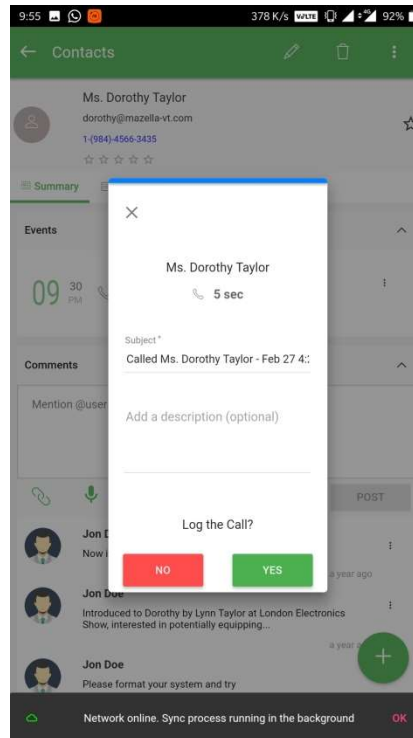
Screenshots of Vtiger 360

31. When the user ends the call, the Vtiger 360 app automatically shows the pop-up for call logging. This shows that the app detects that the call has ended (e.g., "end of call (EOC) event has been detected").

How do I log outgoing calls in Vtiger 360?

1. Click on the phone number to make a call either from summary view or detail view or header view of the record.
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32. If the call logging feature has been enabled and the user ends the call, the Vtiger 360 app shows the pop-up for call logging

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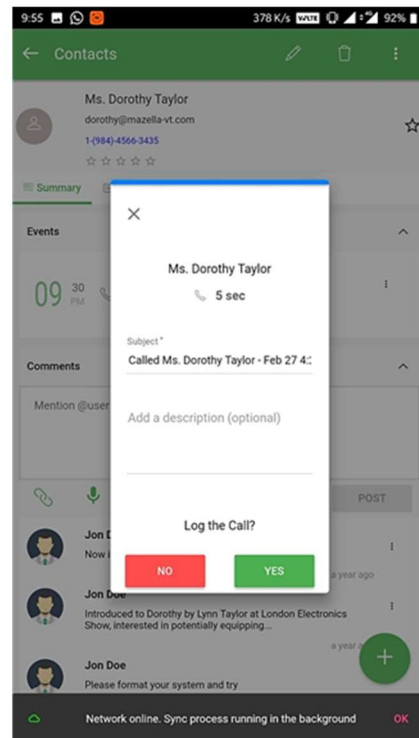
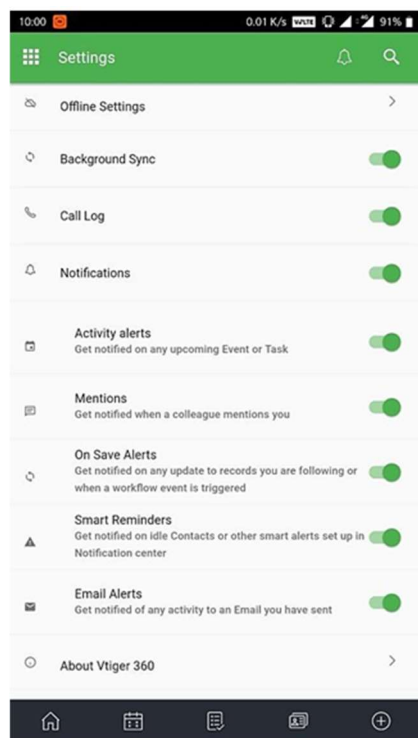
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Log calls from any of the modules having phone field with phone numbers. For every call, you can create an Event record.

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Id.



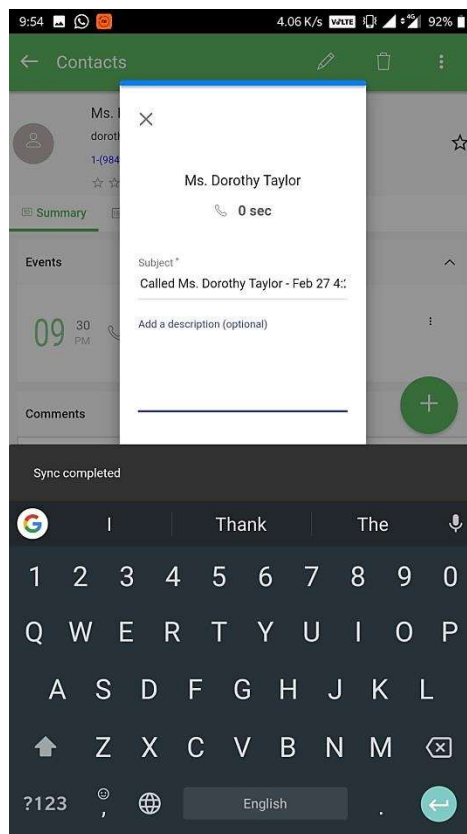
Screenshot of Vtiger 360.

33. The call log option allows the user to enter notes about the call. If the user does not want to add notes/description, he/she has an option to cancel the call logging (e.g., "the user authorizing initiation of the procedure").

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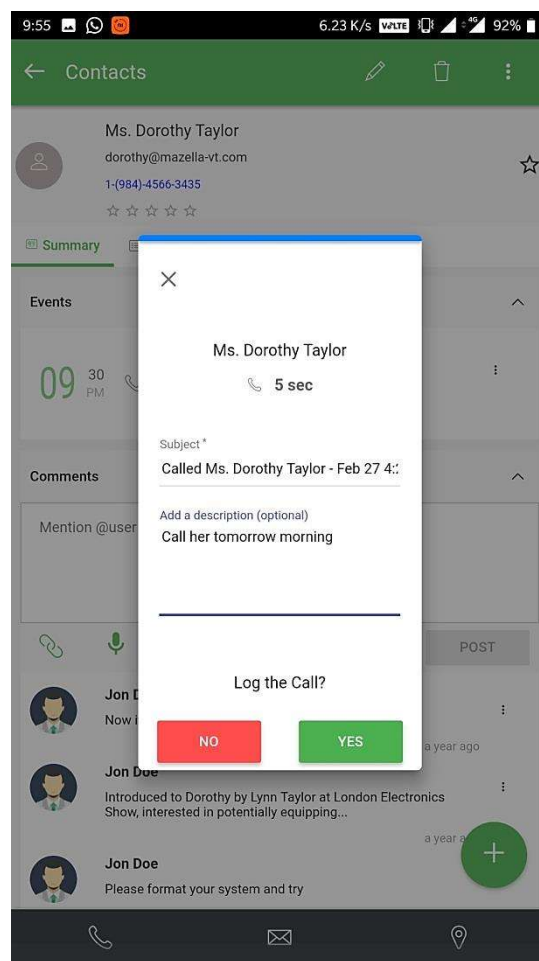
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34. The user can enter information such as notes related to the call (e.g., "digital content").

How do I log outgoing calls in Vtiger 360?

1. Click on the phone number to make a call either from summary view or detail view or header view of the record.
2. After the call ends/disconnected, a pop-up appears to log the call.
3. Provide Subject to the event.
4. Click on Yes button to log the call, an Event record is created with the call details.
5. Click on 'Add a Description' in the call log pop up to add your important notes as the description in the Event record.
6. The created Event will be linked to the record that initiated the call.
7. On clicking No button, the call is not logged.

https://www.vtiger.com/docs/vtiger-360-mobile-app#/Log_outgoing_calls_from_Vtiger_360.



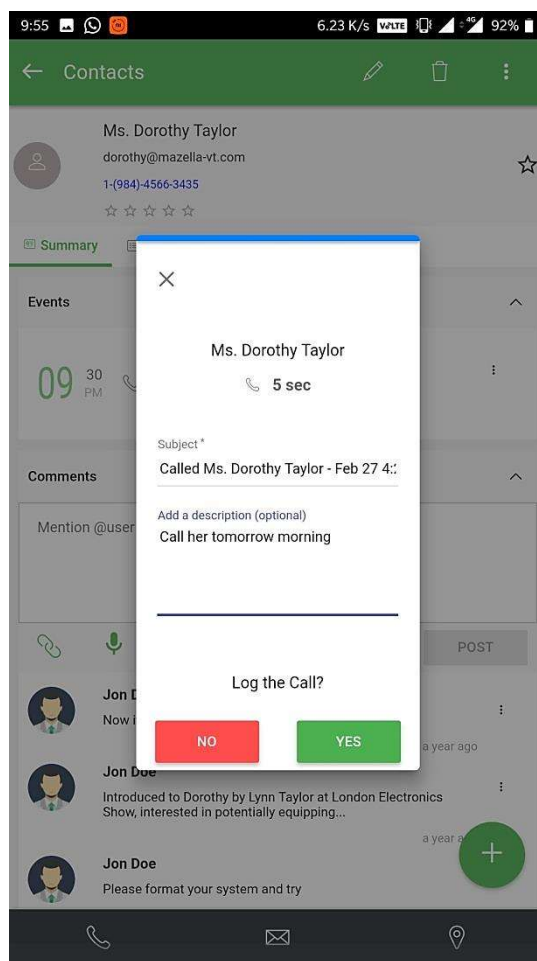
Screenshot of Vtiger 360.

35. The Vtiger 360 app automatically fetches other details about the call such as description about the call, called party name, etc.

How do I log outgoing calls in Vtiger 360?

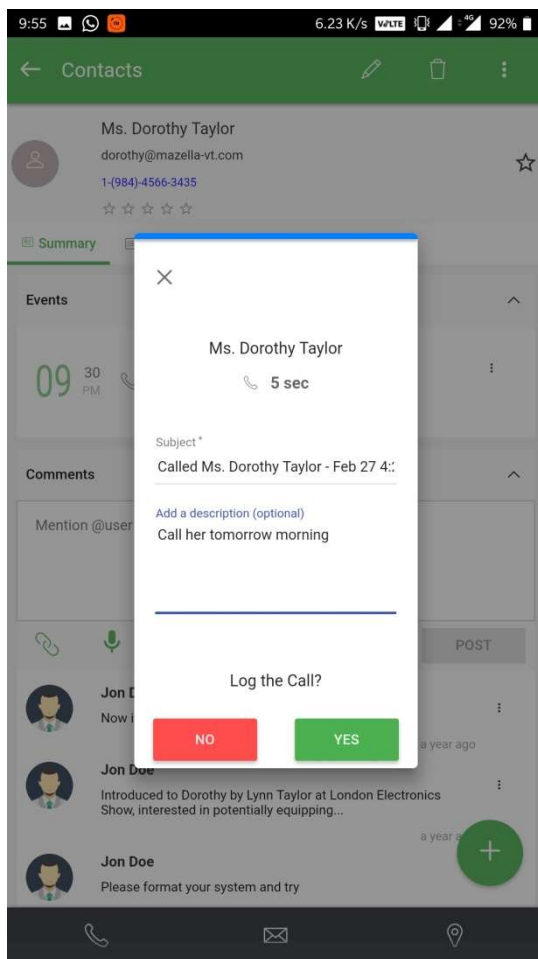
1. Click on the phone number to make a call either from summary view or detail view or header view of the record.
2. After the call ends/disconnected, a pop-up appears to log the call.
3. Provide Subject to the event.
4. Click on Yes button to log the call, an Event record is created with the call details.
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https://www.vtiger.com/docs/vtiger-360-mobile-app#/Log_outgoing_calls_from_Vtiger_360.



Screenshot of Vtiger 360.

36. The call logging functionality allows the user to create an electronic file comprising the details of the call such as name of the called party and notes entered by the user.



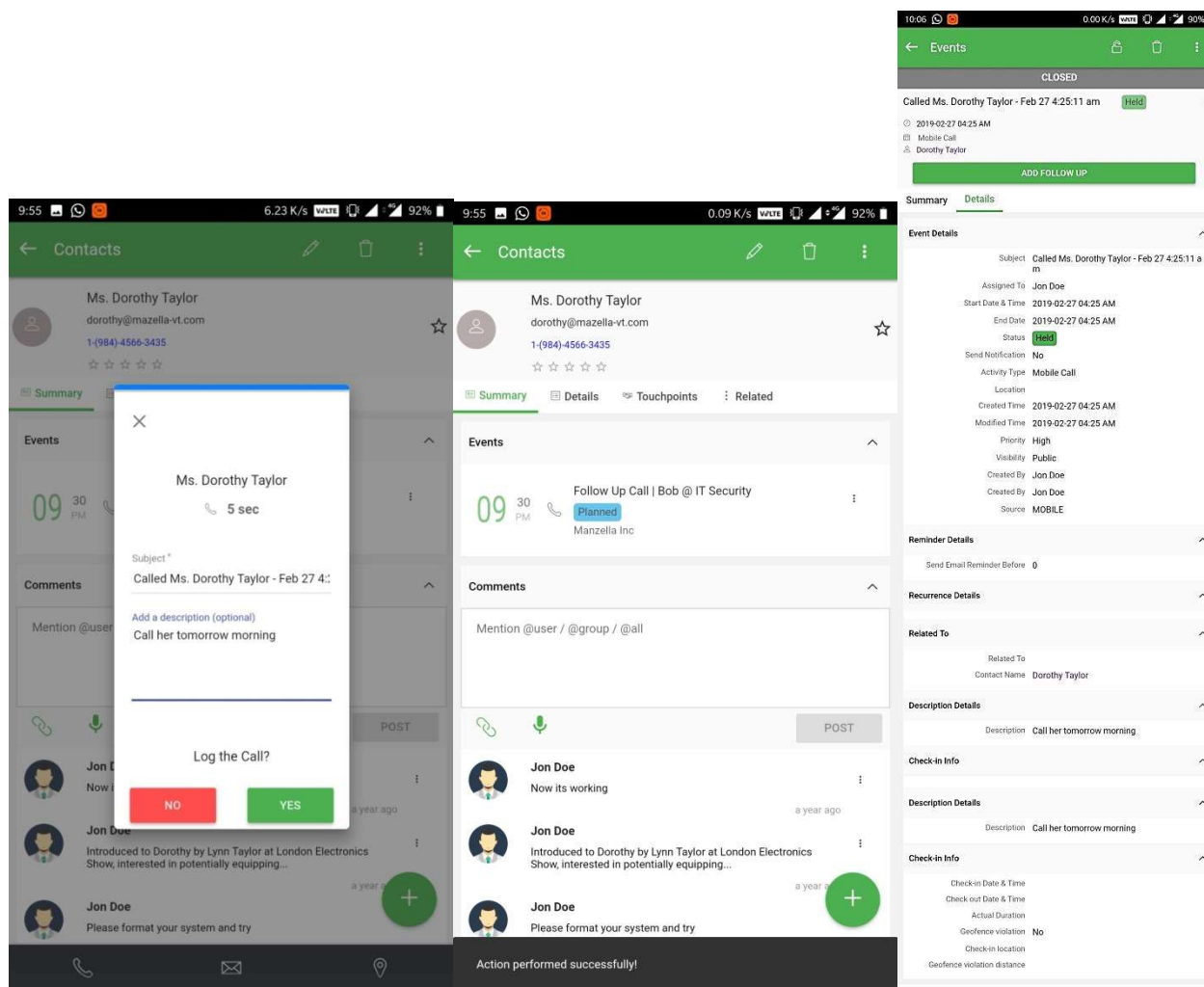
Screenshot of Vtiger 360.

37. When the user has entered notes regarding the call and clicks on "Yes" option, the information is saved and these details are further used to track the customer calls for future reference.

How do I log outgoing calls in Vtiger 360?

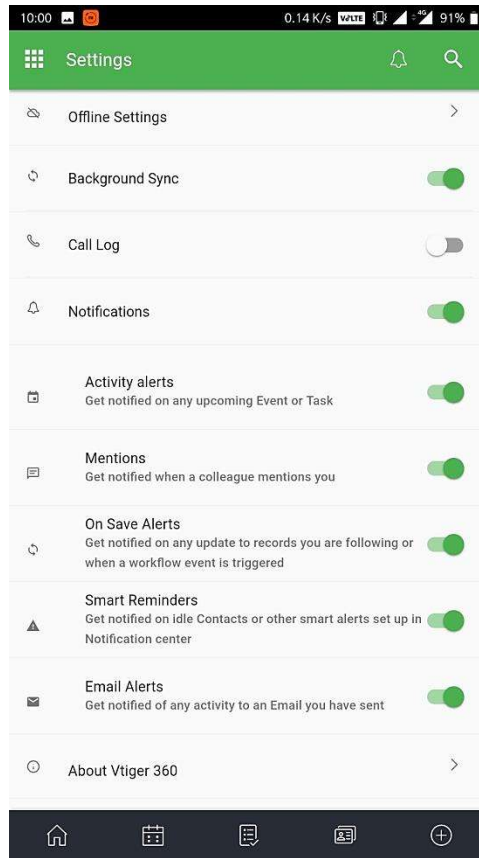
1. Click on the phone number to make a call either from summary view or detail view or header view of the record.
2. After the call ends/disconnected, a pop-up appears to log the call.
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https://www.vtiger.com/docs/vtiger-360-mobile-app#/Log_outgoing_calls_from_Vtiger_360.



Screenshots of Vtiger 360.

38. The Vtiger 360 app has a feature to enable or disable call logging. When the call logging is disabled (e.g., "threshold criteria has not been satisfied"), no pop-up is displayed to the user for entering details or notes related to that call after the "end of call" event.



Screenshot of Vtiger 360.

39. Zeno Holdings is entitled to recover from Defendant the damages sustained by Zeno Holdings as a result of Defendant's infringement of the '836 patent in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

WILLFULNESS AND INDIRECT INFRINGEMENT

40. Zeno Holdings repeats and realleges the allegations of paragraphs 1 through 39 as if fully set forth herein.

41. Defendant has been on notice of the '773 and '836 patents since, at the latest, its receipt of Zeno Holdings' licensing agent's letter dated August 19, 2019.

42. Upon information and belief, Defendant has not altered its infringing conduct after receiving the August 19, 2019 letter.

43. Upon information and belief, Defendant's continued infringement despite its knowledge of the '773 and '836 patents and the claim charts enclosed with the August 19, 2019 letter that evidenced infringement has been objectively reckless and willful.

44. In particular, Defendant's customers' and end-users' use of Defendant's products and services which operate a mobile communication device associated with a user, such as, Vtiger 360, is facilitated by the use of technology patented under the '773 and '836 patents. Thus, Defendant's customers and end-users are able to log calls when using such products and services.

45. On information and belief, in order to generate profits and revenues, Defendant markets and promotes, e.g., through its website and sales personnel, the use of its products and services that infringe the '773 and '836 patents when used as intended by Defendant's customers and end-users. Defendant's customers and end-users use such products and services (including, e.g., Defendant's software). Defendant further instructs its customers and end-users how to use such products and services in a manner that infringes the '773 and '836 patents (e.g., through on-line technical documentation, instructions, and technical support). Defendant further instructs its customers and end-users to infringe the '773 and '836 patents through the products and services themselves, e.g., through on-line instructions and intuitive user interfaces, such as those found in Vtiger 360.

46. In particular, Defendant instructs its customers and end-users through at least

on-line support instructions and documentation over the Internet how to keep track and log calls when using Vtiger 360.

47. Defendant still further makes such products and services accessible to its customers and end-users via mobile apps, thus enabling and encouraging its customers and end-users to use such products and services, including supporting software systems, to infringe the '773 and '836 patents.

48. On information and belief, even though Defendant has been aware of the '773 and '836 patents and that its customers and end-users infringe these patents since as of its receipt of the August 19, 2019 letter and Defendant has neither made any changes to the functionality, operations, marketing, sales, technical support, etc. of such products and services to avoid infringing the '773 and '836 patents nor informed its customers or end-users how to avoid infringing the '773 and '836 patents. To date, Defendant has not identified a single action that it has taken to avoid infringement (e.g., by designing around or notifying its customers or end-users how to avoid infringement) by itself or its customers or end-users since it became aware of the '773 and '836 patents.

49. On information and belief, Defendant itself is unaware of any legal or factual basis that its actions solely, or in combination with the actions of its customers and end-users, do not constitute direct or indirect infringement of the '773 and '836 patents. To date, Defendant has not produced any opinion of counsel, request for opinion of counsel, evaluation, analysis, or investigation relating to the validity, scope, interpretation, construction, enforceability, unenforceability, or the infringement or potential infringement of any claim of the '773 and '836 patents.

50. As such, on information and belief, despite the information Defendant obtained

from the August 19, 2019 letter, Defendant continues to specifically intend for and encourage its customers and end-users to use its products and/or services in a manner that infringe the claims of the '773 and '836 patents. In addition, since at least its receipt of the August 19, 2019 letter, Defendant has deliberately avoided taking any actions (e.g., designing around, or providing notice to its customers) to avoid confirming that its actions continue to specifically encourage its customers and end-users to use its products and/or services in a manner that infringe the claims of the '773 and '836 patents.

51. Defendant's actions of, *inter alia*, making, importing, using, offering for sale, and/or selling such products and/or services constitute an objectively high likelihood of infringement of the '773 and '836 patents, which were duly issued by the United States Patent and Trademark Office and are presumed valid. Since at least its receipt of the August 19, 2019 letter, Defendant is aware that there is an objectively high likelihood that its actions constituted, and continue to constitute, infringement of the '773 and '836 patents and that the '773 and '836 patents are valid. Despite Defendant's knowledge of that risk, on information and belief, Defendant has not made any changes to the relevant operation of its products and/or services and has not provided its users and/or customers with instructions on how to avoid infringement the '773 and '836 patents. Instead, Defendant has continued to, and still is continuing to, among other things, make, use, offer for sale, and/or sell products and/or services patented under the '773 and '836 patents. As such, Defendant willfully, wantonly and deliberately infringed and is infringing the '773 and '836 patents in disregard of Zeno Holdings' rights under the '773 and '836 patents.

JURY DEMAND

Zeno Holdings hereby demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Zeno Holdings requests that this Court enter judgment against Defendant as follows:

- A. An adjudication that Defendant has infringed the '773 and '836 patents;
- B. A judgment that Defendant has induced infringement of the '773 and '836 patents;
- C. An award of damages to be paid by Defendant adequate to compensate Zeno Holdings for Defendant's past infringement of the '773 and '836 patents and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- D. An award of enhanced damages pursuant to 35 U.S.C. § 284 for Zeno Holdings' willful infringement of the '773 and '836 patents subsequent to the date of its notice of the '773 and '836 patents
- E. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Zeno Holdings' reasonable attorneys' fees; and
- F. An award to Zeno Holdings of such further relief at law or in equity as the Court deems just and proper.

Dated: January 7, 2020

Respectfully Submitted

/s/ Raymond W. Mort, III

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